

REMARKS

Reconsideration of the application is now respectfully requested based on the Amendments and Remarks. Claims 1 and 19-21 are amended. Claims 1 and 3-21 are pending.

Claim Rejections Under 35 U.S.C. § 103

The Office Action rejects Claims 1, 6-8, 10, 12, 14, 17-18, 20-21 as being unpatentable over Hagiwara et al. (U.S. Patent 5,784,035) in view of Nishida (U.S. Patent 6,400,340). Applicant respectfully disagrees.

I. The Hagiwara/Nishida Prior Art Combination Does Not Establish A Prima Facie Case Of Obviousness

It is well-settled that the establishment of a prima facie case of obviousness requires that all the claim limitations be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Applicant contends that the Hagiwara/Nishida prior art combination fails to establish a prima facie case of obviousness because neither Hagiwara nor Nishida alone or in combination teach or suggest the limitation of “dynamically defining a plurality of segments during a time when the image is rendered” as recited in independent amended claims 1, 20 and 21. The Office Action concedes at page 3, last paragraph that Hagiwara does not explicitly teach the limitation *dynamically defining a plurality of image segments*. Applicant concurs that Hagiwara does not disclose or suggest Applicant’s recited limitation. But, Nishida does not cure this deficiency. Nishida neither teaches nor suggests the limitation *dynamically defining a plurality of image segments* and Applicant contends that any assertion made in the Office Action to the contrary is clearly erroneous.

In support of its assertion, the Office Action cites to Nishida, column 18, lines 16-25 which states:

In short, a display signal (command) of the format shown in FIG. 3 does not indicate a display state with respect to a specific hardware, but it indicates blocks formed by a specific divisional mode in a view of software.

Based on this citation, the Office Action concludes that “the division of the display segment blocks is in view of software, and therefore dynamically controlled according to software instructions.” *See Office Action, page 3, last paragraph.* Here, the Office Action attempts to equate the use of software with a concept of “dynamic control”. However, “dynamic control” is not a limitation recited by any of Applicant’s claims. Moreover, “dynamically controlled” is not the same as *dynamically defining*, and nothing in Nishida even remotely suggests the ***dynamic definition of a plurality of image segments*** as specifically recited and required by Applicant’s claims.

It has been emphasized that “[i]n most cases, the best source for discerning the proper context of claim terms is the patent specification wherein the patent applicant describes the invention.” *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1360, 71 U.S.P.Q.2d 1081 (Fed. Cir. 2004). Turning to Applicant’s specification at page 7, lines 17-21, the meaning and context of the recited claim term *dynamically defining* may be ascertained. The specification states:

Furthermore, the segmenting can be dynamic. In other words, **the segment is defined during the time the graphical image is rendered, and is not pre-defined for the system** before the image is rendered. (Emphasis added)

In sum, Applicant’s specification defines *dynamically defining* as defining a segment **during the time an image is rendered and not pre-defining the segment.**

This definition directly contrasts with that of any software instructions in Nishida. For example, at column 15, lines 35-39, **Nishida discloses that the display signal commands/instructions are predetermined, not dynamically defined:**

When a *predetermined* display signal (a command based on the previously described format) is given to the address/data bus and the level bus, the controller first recognizes the divisional level n on the basis of bits of the level bus.

Therefore, based on the foregoing, Nishida does not teach or suggest *dynamically defining a segment during the time a graphical image is rendered* as required by independent claims 1, 20 and 21. Therefore, independent claims 1, 20 and 21 cannot be determined as obvious over Hagiwara and Nishida, either alone or in combination, under 35 U.S.C. § 103(a). Furthermore, if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.1988). Accordingly, Claims 3-18, which depend from independent claim 1, are also not obvious over Hagiwara and Nishida, either alone or in combination.

II. The Apple/Nishida Prior Art Combination Does Not Establish A Prima Facie Case Of Obviousness

The Office Action rejects Claims 19 as being unpatentable over Apple (U.S. Patent 7,082,398) in view of Nishida (U.S. Patent 6,400,340). Applicant respectfully disagrees.

Applicant contends that the Apple/Nishida prior art combination fails to establish a prima facie case of obviousness because neither Apple nor Nishida alone or in combination teach or suggest the limitation of *dynamically segmenting a video image during a time when the image is rendered* as recited and required by independent claim 9. The Office Action concedes at page 11, paragraph 2 that Apple does not explicitly teach dynamically segmenting. Applicant concurs that Apple does not teach or suggest the limitation of dynamically segmenting. But, Nishida does

nothing to cure this deficiency for Nishida also does not teach or suggest the limitation of dynamically segmenting. Nevertheless, the Office Action proceeds to map Applicant's claim limitation to *dynamically segment a video image during a time when the image is rendered* to the same citation in the Nishida prior art used to reject the claim 1 limitation "dynamically defining a plurality of image segments during a time when the image is rendered," *to wit*, Nishida, column 18, lines 16-24.

However, as explained, *supra*, that citation from Nishida which states "in view of software" cannot be construed to mean dynamic execution of anything. Applicant's specification discloses the context of dynamic as specifically meaning *not pre-defined*. Nothing in the Nishida prior art teaches or suggest this construction. Rather, Nishida teaches away from the construction of dynamic as disclosed in Applicant's specification, particularly at column 15, lines 35-39, where Nishida states that the display signal commands/instructions are *predetermined*, which is tantamount to the meaning of pre-defined:

When a *predetermined* display signal (a command based on the previously described format) is given to the address/data bus and the level bus, the controller first recognizes the divisional level n on the basis of bits of the level bus.

Furthermore, all the software commands given in Nishida are predetermined or pre-defined.

Therefore, based on the foregoing, since Nishida does not teach or suggest to *dynamically segment a video image during a time when the image is rendered* as required by independent claim 9, Claim 9 cannot be determined as obvious over Apple and Nishida, either alone or in combination, under 35 U.S.C. § 103(a).

CONCLUSION

Based on the foregoing amendment and remarks, Applicants respectfully request withdrawal of the rejection of Claims 1 and 3-20 under 35 U.S.C. § 103. This response is intended to be a complete response to the Office Action mailed October 4, 2007. All rejections have been traversed or accommodated. No new matter has been added. Applicants respectfully submit that all claims are now in a condition for allowance, and such notice is hereby earnestly solicited.

Applicant hereby requests an extension of time for making this reply and hereby authorizes the Director to charge the required fee to Deposit Account No. 50-0605 of CARR LLP. Applicant does not believe that any other fees are due; however, in the event that any other fees are due, the Director is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

CARR LLP

Dated: January 10, 2008
CARR LLP
670 Founders Square
900 Jackson Street
Dallas, Texas 75202
Telephone: (214) 760-3030
Fax: (214) 760-3003

/Gregory W. Carr/
Gregory W. Carr
Reg. No. 31,093